

MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
DECEMBER 8, 2005

The Lake County Board of Adjustment met Thursday, December 8, 2005 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Darren Eslinger
Henry Wolsmann, Vice Chairman
Ruth Gray
Mary Link Bennett
Donald Schreiner, Chairman
Carl Ludecke

Board Members Not Present:

Howard (Bob) Fox, Jr.

Staff Present:

Terrie Diesbourg, Director, Customer Services Division
Anita Greiner, Senior Planner, Customer Services Division
Anna Ely, Public Hearing Coordinator, Customer Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Melanie Marsh, Deputy County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He stated that the original of any exhibit used during testimony must be given to Sherie Ross, Public Hearing Coordinator, so it becomes part of the permanent record. He asked the Board members to ensure that microphones are on at all times. When a motion is made, he said he would be repeating the motion as well as the names of the persons who made and seconded the motion so it is clear on the tape. He confirmed the Proof of Publication shown on the monitor.

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Minutes

MOTION by Ruth Gray, SECONDED by Carl Ludecke to approve the November 10, 2005 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Eslinger, Wolsmann, Gray, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Fox, Bennett

MOTION CARRIED: 5-0

Chairman Schreiner added that if a variance is approved at this public hearing, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter.

Chairman Schreiner explained the procedure for hearing the cases on the consent agenda.

Under postponements in the agenda, Anita Greiner, Senior Planner, noted that last month BOA#105-05-3, Elizabeth Lee-Wilkinson/Sundeep, was postponed indefinitely so no further action is needed at this time.

Withdrawal:

BOA#146-05-2

Agenda No. 16

Carlos and Anna Maria Forte Martinez

MOTION by Carl Ludecke, SECONDED by Ruth Gray to accept the withdrawal of BOA#146-05-2.

FOR: Eslinger, Wolsmann, Gray, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Fox, Bennett

MOTION CARRIED: 5-0

Postponements:

BOA#122-05-3	Pete Benevides/Steven J. Richey, P.A.	Agenda No. 2
BOA#123-05-3	Pete Benevides/Steven J. Richey, P.A.	Agenda No.: 3
BOA#128-05-1	Rudolph Reiher and Keith Whitmore	Agenda No. 4
	Ronald C. Davis	
BOA#137-05-5	Ronald L. and Nancy L. Smith	Agenda No. 7
BOA#139-05-1	Timothy J. and Robin L. Green/Bruce Duncan	Agenda No. 9

MOTION by Henry Wolsmann, SECONDED by Ruth Gray to postpone BOA#122-05-3, BOA#128-05-1, BOA#137-05-5, and BOA#139-05-1 until the January 12, 2006 Board of Adjustment public hearing and to postpone BOA#123-05-3 until the February 9, 2006 Board of Adjustment public hearing.

FOR: Eslinger, Wolsmann, Gray, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Fox, Bennett

MOTION CARRIED: 5-0

Discussion of Consent Agenda

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#135-05-5, BOA#136-05-5, BOA#138-05-4, BOA#144-05-5, and BOA#145-05-5. A gentleman in the audience asked that BOA#140-05-1 be removed from the consent agenda, and Henry Wolsmann asked that BOA#142-05-5 be removed from the consent agenda. These cases will be placed on the regular agenda.

CASE NO.:	BOA#135-05-5	AGENDA NO.:	5
OWNER:	Georgina S. Fernandes Scott		
APPLICANT:	Martha Whitley		
CASE NO.:	BOA#136-05-5	AGENDA NO.:	6
OWNER:	Digna M. Gonzalez		
APPLICANT:	Mirtha Rincon		
CASE NO.:	BOA#138-05-4	AGENDA NO.:	8
OWNERS:	Jaime and Santos Rodriquez		
APPLICANT:	Santos Rodriquez		
CASE NO:	BOA#144-05-5	AGENDA NO.:	14
OWNERS/APPLICANTS:	Edgar R. and Linda G. Huckeba		
CASE NO.:	BOA#145-05-5	AGENDA NO.:	15
OWNERS:	Richard and Lynnette M. Wright		
APPLICANT:	Mason Dixon Custom Builder, Inc.		

MOTION by Ruth Gray, SECONDED by Carl Ludecke to take the following actions on the above consent agenda:

BOA#135-05-5	Approval
BOA#136-05-5	Approval
BOA#138-05-4	Approval
BOA#144-05-5	Approval
BOA#145-05-5	Approval

FOR: **Eslinger, Wolsmann, Gray, Schreiner, Ludecke**

AGAINST: **None**

NOT PRESENT: **Fox, Bennett**

MOTION CARRIED: **5-0**

CASE NO.:**BOA#140-05-1****AGENDA NO.:****10****OWNER/APPLICANT:****George M. Mathew, M.D.**

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial from the staff report on the monitor.

Carl Ludecke noted that there are smaller parcels in the area.

Amarjeet Lotey was present to represent the owner/applicant.

Jully Deuassia said he had nothing to add to the staff's presentation.

When Pauline Livingston, adjacent property owner, asked about the distance on Corley Island Road for the easement, Ms. Greiner drew the easement on the aerial (County Exhibit A) to show how the two proposed lots would be accessed. She said the easement would be 50 feet wide and 115 feet long. Ms. Livingston said the subject property does not have 50 feet. Donald Schreiner said the easement would be on Mr. Mathew's property. It would not affect her property.

Paul Rash said this lot split would not benefit the neighborhood. The house has been empty for about 12 years. This split would only benefit the owner of the property. He would like to have the property remain as it is. When Mr. Rash said his property was less than an acre, Mr. Ludecke pointed out that the requested lots would be larger than that. He questioned why the request would be offensive to Mr. Rash. In response to Ruth Gray, Mr. Rash said his property is diagonally across from Ms. Livingston's property. Mr. Ludecke pointed out that this is nice lakefront property, and he did not think that an inexpensive house would be built on it. Mr. Rash said there is already a lot of traffic on Corley Island Road. Another house would add more traffic. He was opposed to the request.

MOTION by Carl Ludecke, SECONDED by Ruth Gray to approve the variance request in BOA#140-05-1 with the conditions that the owner record deed restrictions requiring the property owner and subsequent owner(s) to maintain the easement. The deed restrictions must be recorded prior to the recordation of the minor lot split final development order.

FOR:**Eslinger, Wolsmann, Gray, Schreiner, Ludecke****AGAINST:****None****NOT PRESENT:****Fox, Bennett****MOTION CARRIED: 5-0**

Ms. Greiner explained to the audience that if a variance is granted to do a minor or family lot split, it is still necessary to go through the process of doing a family or minor lot split. Obtaining the variance is only the first step of the process.

CASE NO.: BOA#141-05-3

AGENDA NO.: 11

OWNERS: Ari and Jessica Zominhan
APPLICANT: Ari Zominhan

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor and submitted it as County Exhibit A. She also submitted a wetlands map as County Exhibit B and a flood zone map as County Exhibit C. In response to Ruth Gray, Ms. Greiner said that to the best of her knowledge, the Zominhans own only this ten-acre parcel.

Ari Zominhan was present to represent the case. He said he bought this property in 1996. He had not planned on dividing this property; but due to a financial situation, that is one of the reasons he is requesting this variance. Most of the properties in the area are five-acre tracts so he did not feel these two proposed lots would harm the neighborhood. Donald Schreiner confirmed that the structures on the property would be in one of the proposed five-acre parcels. Darren Eslinger said the ten-acre parcel would be split east to west. Ms. Greiner added that there would be a north parcel and a south parcel so each parcel would have frontage on South O'Brien Road. When Mr. Eslinger asked if Mr. Zominhan knew that this property had been split several times previously, Mr. Zominhan said he did not. Ms. Greiner pointed out that this Board could condition the variance so that no further minor of family lot splits could be done on the property.

Mr. Eslinger said he did not have a problem with a split such as this especially since the current owner did not split it, and it is consistent with what is already in the area. The road appears to be wide enough even though it is clay.

When Carl Ludecke asked Mr. Zominhan if he had a problem with further splits of this property being prohibited, Mr. Zominhan said he did not. Mr. Ludecke stated that the County has been trying lately to pave some of these more active clay roads. South O'Brien Road is in an area that may soon be considered. Ms. Greiner said South O'Brien Road is well maintained. Mr. Ludecke said he did not have a problem with this request, and no letters of opposition have been received.

MOTION by Ruth Gray, SECONDED by Darren Eslinger to approve the variance request in BOA#141-05-3 with the condition that no further lots splits be permitted on this property including family lots splits.

FOR: Eslinger, Wolsmann, Gray, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Fox, Bennett

MOTION CARRIED: 5-0

CASE NO.: **BOA#142-05-5** **AGENDA NO.:** **12**

OWNER/APPLICANT: **Trinity Homes of Central Florida, Inc.**

Anita Greiner, Senior Planner, showed the aerial from the staff report on the monitor.

Chairman Schreiner noted that Henry Wolsmann had asked that this case be removed from the consent agenda and placed on the regular agenda.

Mr. Wolsmann said this Board seems to be getting a lot of cases similar to this case, and they are approved. However, he felt that when someone buys property, that person should do some investigation before the purchase.

Mary Bennett came into the meeting.

When Mr. Wolsmann said this problem could be corrected easily, Ms. Greiner said the only way to allow the two lots to be used as buildable sites would be to come before this Board. These lots were platted as one-acre individual parcels in 1971 or 1972. In many of these cases, Ms. Greiner said the owners bought two large lots in a platted subdivision and did not know that the lots must be aggregated. They thought they had purchased two buildable sites. Ruth Gray said a proposed owner has an obligation to research the property before purchasing it; otherwise people create their own hardship. Ms. Greiner said a person must either have a hardship or prove that principles of fairness have been violated as one part of obtaining a variance.

Carl Ludecke stated that this subdivision is called Royal Trails. There are 1,100 one-acre tracts in this subdivision. All the roads are paved. When the County changed the rules years ago, it grandfathered in about half of this subdivision as one-acre lots. That half of the subdivision does not need a variance to build on the one-acre lots. The other half of the subdivision needs variances because the County has set a density of one house per five acres on those lots. Mr. Ludecke asked Ms. Greiner if this subdivision is one of the subdivisions the County is looking at to correct this situation. Ms. Greiner acknowledged that the County would be looking at this subdivision. In response to Ms. Gray, Ms. Greiner said the County does offer some relief from this requirement.

MOTION by Darren Eslinger, SECONDED by Carl Ludecke to approve the variance request in BOA#142-05-5.

FOR: **Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke**

AGAINST: **None**

NOT PRESENT: **Fox**

MOTION CARRIED: 6-0

CASE NO.: BOA#143-05-2

AGENDA NO.: 13

OWNER: Dorothy Sue Nigh

APPLICANT: Vici Winn

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor and submitted a wetlands map as County Exhibit A and a flood zone map as County Exhibit B. She showed the pictures from the staff report on the monitor. She noted that one letter of opposition was received. Darren Eslinger felt the letter was more of a concern than an objection. Ruth Gray felt it was a letter of objection. Ms. Greiner said neither the owner nor the applicant was present.

Darren Eslinger noted other five-acre lots on Sharon Road. Ms. Greiner submitted an aerial as County Exhibit C and a zoning map as County Exhibit D and pointed out the other five-acre parcels in the area.

Donald Schreiner asked the name of the person who did the original lot split. Ms. Greiner replied that in 1991, the applicant was Ronald Sims. Mr. Sims wrote the letter of opposition.

Since the existing house is only 800 square feet, Ms. Greiner said it could be used as an accessory dwelling unit; and a larger house could be built as the permanent residence. This would be an option to splitting the property. As far as meeting the intent of the Code, Ms. Greiner said the subject parcel already fronts on an easement that is not paved or County maintained. By splitting this parcel, she would be putting another parcel on that easement. Because the subject parcel is over an acre, the owner would be allowed to have a primary dwelling unit and an accessory dwelling unit.

Regarding Parcel 4 shown on County Exhibit D, Carl Ludecke stated that even though it is a large parcel, only one-third of it is buildable because of the marsh. The parcel below that would be the same. Although the parcels to the right of the subject parcel are large, the parcels do not have much usable land. To the left of the subject parcel are five-acre and 2-1/2-acre parcels. Therefore, he did not feel the request is inconsistent with other parcels in the area.

Ms. Greiner added that the owner could do a family lot split to prevent it from being sold for five years.

MOTION by Ruth Gray, SECONDED by Henry Wolsmann to deny the variance request in BOA#143-05-2.

FOR: Eslinger, Wolsmann, Gray, Bennett, Schreiner

AGAINST: Ludecke

NOT PRESENT: Fox

MOTION CARRIED: 5-1

Melanie Marsh stated that starting in January, Kevin McBride, Assistant County Attorney, will be sitting as counsel for this public hearing.

Adjournment

There being no further business, the meeting was adjourned at 2:05 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman